

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VIRGINIA M. WILKINS and DEPARTMENT OF THE ARMY,
FITSIMONS ARMY MEDICAL CENTER, Aurora, Colo.

*Docket No. 97-221; Submitted on the Record;
Issued October 16, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly suspended appellant's compensation benefits effective September 15, 1996, based upon her failure to complete a Form CA-1032 as requested.

The Office accepted that appellant sustained a bruised right shoulder and sympathetic dystrophy of the right shoulder and hand due to a May 7, 1981 employment injury. Appellant received compensation for total-wage loss disability.

On July 30, 1996 the Office requested that appellant complete and return an enclosed Form CA-1032 covering the previous 15-month period. The Office advised appellant in a cover letter that she must completely answer all questions and return the form within 30 days or her compensation benefits would be suspended in accordance with 20 C.F.R. § 10.125.

Appellant did not respond to the Office's request.

In a letter dated September 5, 1996, the Office notified appellant that it had suspended her entitlement to compensation benefits due to her failure to complete Form CA-1032. The Office advised appellant that her benefits would not be reinstated until receipt of the requested form.

By letter dated September 6, 1996, the Office again requested that appellant complete the enclosed Form CA-1032.

In a decision dated September 9, 1996, the Office again informed appellant that her benefits had been suspended effective September 15, 1996 pursuant to section 10.125(a) of the regulations. The Office informed appellant that her compensation would be retroactively restored upon receipt of the report, if the information on the report supported continuing payment. The Office enclosed another copy of the Form CA-1032 for her completion.

The Board finds that the Office properly suspended appellant's compensation benefits effective September 15, 1996 for failure to report earnings.

Section 8106(b) of the Federal Employees' Compensation Act authorizes the Secretary of Labor to "require a partially disabled employee to report his earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies." Pursuant to this statutory authority, as well as his authority under 5 U.S.C. § 8149 to "prescribe rules and regulations necessary for the administration and enforcement" of the Act, the Secretary has promulgated 20 C.F.R. § 10.125(a)(1998) which provides as follows:

"While in receipt of compensation for partial or total disability, and unless found by the Office to be unnecessary or inappropriate, an employee shall periodically be required to submit an affidavit or other report of earnings from employment or self-employment on either a part-time or full-time basis. If an employee when required, fails within 30 days of the date of the request to submit such an affidavit or report, the employee's right to compensation for wage loss under section 8105 or 8106 is suspended until such time as the requested affidavit or report is received by the Office, at which time compensation will be reinstated retroactive to the date of suspension."¹

The Office's regulation which provides for suspension of benefits for failure to submit an affidavit or other report of earnings from employment or self-employment is consistent with the intent of the statute, at section 8106(b).² Therefore, as appellant did not complete the Form CA-1032 affidavits reporting all employment and self-employment, as properly requested by the Office and as required by regulation, her compensation benefits were correctly suspended.

On appeal, appellant contends that she is entitled to benefits because she remains totally disabled from her employment injury. However, appellant's medical condition is not at issue in the present case; instead, the issue is solely her failure to complete, sign and return to the Office Form CA-1032 as required by the regulations.

¹ 20 C.F.R. § 10.125.

² *James A. Igo*, 48 ECAB ____ (Docket No. 96-307, issued November 19, 1997).

The decision of the Office of Workers' Compensation Programs dated September 9, 1996 is hereby affirmed.

Dated, Washington, D.C.
October 16, 1998

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member